

Scottish Covenanting Radicalism, the Commission of the Kirk and the Establishment of the Parliamentary Radical Regime of 1648-1649

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The British perspective

The era of covenanting hegemony from 1637-1651 enjoys a unique place in the Scottish presbyterian religious tradition. In terms of the Protestant religious experience as a whole and the development of the Church of Scotland it ranks beside the Reformation of 1560 and the Great Disruption of 1843 as an historical landmark. The impact of the covenanting movement, however, was not confined to a Scottish domestic context and it is of central importance to the outbreak and conduct of the British Civil Wars.

Recent trends in the historiography of the British Isles in the seventeenth century have increasingly emphasised the need for a more holistic approach to what may be defined as a new "British history".¹ The traditional anglo-centric interpretation of seventeenth-century British history has been increasingly challenged. Much of the momentum for this new debate has been sustained by Conrad Russell and John Morrill, two eminent historians of the English Civil War. With historians having failed adequately to explain the outbreak of the Great Rebellion by reference to purely English events, the covenanting revolution commencing in 1637 and the outbreak of the Irish Rebellion in 1641 have taken on a profound significance within an overall British dimension.² The history of the "British archipelago" in the English civil war period is dominated by the Scottish covenanting movement which

¹ Most notably, "Britain's Revolutions" and "The Causes of Britain's Civil Wars" in J. Morrill, *The Nature of the English Revolution* (London, 1993), 246, 252-72.

² See C. Russell, *The Causes of the English Civil Wars* (Oxford, 1990) and *The Fall of the British Monarchies 1637-42* (Oxford, 1991).

was at the forefront of the political, constitutional, military and ecclesiastical dimensions of the British civil wars. Far from being viewed as a narrow and parochial struggle between church and state resulting in Cromwellian occupation in 1650-51, the unfolding of events of 1649-51 in Scotland should be regarded as part of a wider British picture in terms of socio-economic, religious, and political change.

Political factionalism within the covenanting movement

One of the main drawbacks of the historiography of the covenanting movement has been its failure adequately to address the nature and extent of covenanting factionalism. Who were the covenanters? The covenanting movement did not represent nor constitute a single, uniform set of political values and strands. Essentially the movement was composed of radical and conservative elements and religious grievances did not represent the sole component of the covenanting agenda. My own doctoral work, based on analysis of empirical parliamentary data, has highlighted these differences. The labels of “radical” and “conservative” have been employed as the appropriate political terminology of the various strands within the movement. In addition, “pragmatic royalists” have been termed as those royalists who subscribed covenanting oaths and obligations (notably the National Covenant and the Solemn League and Covenant) in order to gain admission to public office (especially parliament). The dynamics of the movement were sustained throughout the covenanting era by the gentry and burgesses, and within the formal arena of the Scottish parliament, the 1640s witnessed the development of a “Scottish Commons”. The traditional power of the nobility was challenged from the shires and the burghs. In terms of human resources, the gentry and burgesses supplied the bulk of manpower to serve on parliamentary session and interval committees. Analysis of empirical parliamentary data has emphasised this trend on a regular basis. Extra-parliamentary gentry and burgesses were often nominated to and served on parliamentary committees. In short, the Scottish localities provided a regular body of personnel prepared to serve in the covenanting movement.

The years 1647-48 mark a critical juncture in the factional political struggles of the covenanting movement. The radical strand had been in an ascendant position from 1639 to circa 1646. Such an ascendancy and the marginalisation of the conservatives was personified in the calling of the Convention of Estates in 1643 and the subsequent signing of the Solemn League and Covenant with the English parliament. In the English constitutional and military struggle between king and parliament, the radical mainstream was firmly allied to the latter. With the outbreak of civil war in Scotland and Montrose's run of military victories in 1644-45, there was a noted parliamentary rapprochement with the conservatives. However, the key event centred on the surrender of Charles I to the jurisdiction of the English Parliament in 1646-47. Although technically unrelated, it was perceived that the king had been "sold", as arrears of payment to Scottish armed forces in England amounting to £400,000 sterling (£4.8 million Scots) were paid on the removal of those forces from English soil. Such events facilitated the rise of the conservative and pragmatic royalists, culminating in the Engagement treaty of December 1647 and the Engagement parliament of 1648. With the defeat of the Engagement forces at Preston on 17 August 1648, the Whiggamore raid established an extreme radical regime in Edinburgh, backed by Oliver Cromwell, which was anti-Engager in outlook and which ruled virtually unchallenged until the rout at Dunbar on 3 September 1650.³

The commission of the kirk and the radical parliamentary regime

The commission of the kirk can be classified essentially as an executive body whose formation can be traced to 1638-41 and was born out of the need to provide an effective lobbying agency to parliament, English diplomatic commissioners and the king himself. In 1639, John Stewart, 1st earl of Traquair, king's commissioner, had refused to allow commissioners from the General Assembly of 1639 to forward articles to parliament. Instead he allowed this privilege to be restricted to the presbytery of Edinburgh alone. During the parliamentary session of

³ J.R. Young, "The Scottish Parliament 1639-1661: A Political and Constitutional Analysis" (University of Glasgow, Ph.D. thesis, 1993).

1640 and 1641, however, royal protests were now ignored and the General Assembly succeeded in appointing commissioners to attend parliament. The first commission of the kirk was formally established on 5 August 1642, during a period when the Scottish parliament was not in session (the previous session had ended on 17 November 1641). Its formal remit centred on negotiations with the English in order to promote the cause of "reformation" in the southern kingdom, although it was also accorded remarkably wide powers.⁴ Between August 1642 and August 1648 six commissions of the kirk were established.⁵

As an integral component of the Scottish constitutional settlement of 1640-41, the Triennial Act of 6 June 1640 had stated that parliament must convene every three years. The First Triennial Parliament consisted of six sessions and sat from 1644-47. The Second Triennial Parliament consisted of eight sessions and sat from 1648-51.⁶

This contribution attempts to analyse the relationship between the commission of the kirk and the radical regime established following the rout of Engagement forces at Preston. It focuses on that relationship in terms of parliamentary membership, parliamentary committee membership (session and interval committees) and lay membership of the commission of the kirk, as well as examining the commission of the kirk as an effective lobbyist of parliament.

The aftermath of Preston and the establishment of the radical regime to 3 January 1649 (prior to the meeting of the Second Session of the Second Triennial Parliament on 4 January)

Prior to the defeat of Engagement forces at Preston a new commission of the kirk had been formed on 11 August 1648. According to Robert

⁴ D. Stevenson, "The General Assembly and the Commission of the Kirk, 1638-51", *ante*, xix (1977), 67, 69-70, 71; *Records of the Kirk of Scotland containing the Acts and Proceedings of the General Assemblies, from the Year 1638*, ed. A. Peterkin (Edinburgh, 1838), 297, 330-1.

⁵ *Records of the Kirk*, 330-1, 359-60, 399-400, 427-8, 477-8, 514-15.

⁶ *Acts of the Parliaments of Scotland*, edd. T. Thomson & C. Innes, v-vii (ii), (Edinburgh, 1814-1872), v, 262 [hereafter *APS*]. For fuller details refer to Young "Scottish Parliament".

Baillie, this was the committee of “prime importance”. “Upon this the prime men were putt”.⁷ Baillie’s observations on the factional affiliations of its membership is crucial. The electoral influence of Engagers was to be neutralised and “it was carefully provided, that in all Presbyteries they should be chosen who were most zealous for the Covenant, and for the proceedings of the Commission of the Kirk, and for maintainance thereof: so this Assemblie did consist of such whose mind carried them most against the present Engagement, which was the great and only question of the tyme”.⁸ Between 12 August and 3 January 1649, 44 sederunts of the commission are recorded with a total field of 50 ruling elders in attendance.

Following military defeat at Preston, the main focus of the commission’s interest concerned liaison with the committee of estates and the successful implementation of a new radical regime. Moreover, it is within the period September 1648 to January 1649 that much of the anti-Engager legislation enacted in the Second Session of the Second Triennial Parliament, 4 January to 16 March 1649, was drawn up. Sixteen committees of the commission of the kirk were established between 12 August and 17 October 1648, seven of which were concerned with pan-institutional negotiations with the committee of estates. A trio of lay elders consisting of Sir John Wauchope of Niddrie (Edinburgh), George Winraham of Liberton (Edinburgh), and George Dundas of that ilk (Linlithgow) tended to dominate the membership of these 16 committees. Liberton was included on eight of the sixteen committees, whereas Niddrie and Dundas each secured membership of four committees. All three gentry were to the fore in terms of attendance of lay elders; Liberton attended 26 of the 44 diets, Dundas 19 diets and Niddrie 18 diets.⁹

⁷ R. Baillie, *Letters and Journals, 1637-62*, ed. D. Laing, (Bannatyne Club, Edinburgh, 1841-2), iii, 53.

⁸ *Ibid.*, 54.

⁹ *The Records of the Commissions of the Church of Scotland Holden in Edinburgh the Years 1648 and 1649*, edd. A.F. Mitchell & J. Christie (Scottish History Society, 1896), 7-139. According to the membership details of the commission of the kirk of 11 Aug. 1648, George Dundas of that ilk was not a member, but George Dundas of Duddingston was (*Records of the Kirk*, 514-15). The

Two separate committees were established on 6 September; the first one to consider “what is incumbent to the Commission to doe at this tyme for securitie of Religion and prosecution of the Covenant, and for opposing the enemies thereof”, and the second committee was instructed to proceed to the committee of estates to secure the printing of a declaration of the commission of the kirk.¹⁰ The first committee consisted of nine ministers (including the Moderator, Robert Douglas), and four lay elders; Lord Angus, Sir George Maxwell of Nether Pollok (Renfrew), George Dundas of that Ilk (Linlithgow) and George Winraham of Liberton (Edinburgh). Dundas and Liberton were the only two lay elders included on the latter committee. Angus, Liberton, and Sir John Wauchope of Niddrie (Edinburgh) formed the lay membership on a further committee of six ministers established on 8 September to liaise with the committee of estates.¹¹

In terms of political and military strategy the initial problem that faced both the commission of the kirk and the committee of estates was how to deal with former Engagers who were still in arms and who had returned to Scotland. By 9 September Crawford-Lindsay and Lanark were based in Leith and initiated tentative approaches of conciliation to the commission of the kirk and the committee of estates “in such a way as mutallie shall be agreed vpon by Church and State”.¹² They offered to lay down their arms but only on satisfaction of a series of conditions stipulated in a series of articles. Principally, it was argued that because the Engagement had enjoyed the full sanction of authority and sanction of Parliament, the Engagers were still to retain their civil offices and there was to be no punishment of Engagers. Such an attempt at rapprochement was rejected almost immediately by the commission on the grounds that it was “destructive to the Covenant and Religion and to the safety of the kingdome, because they involve an approbation and

sederunts of 6 Sept., 8 Sept., 30 Nov., and 2 Dec., list both “Dundas” and “Dudistoun” (*The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 35, 38, 115, 118). Therefore Dundas of that ilk can be clearly identified. Attendance levels of lay elders at the 44 diets were fairly low.

¹⁰ *Ibid.*, 35.

¹¹ *Ibid.*, 35, 38.

¹² *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 48.

carieing on of the Engagement against the Kingdome of England, which by the Generall Assembly is condemned as vnlawfull and contraire to Gods Word".¹³

The dual issues of appropriate punishment of Engagers and the level of English (meaning Cromwellian) assistance which should be sought occupied the commission throughout September and October 1648. Committees were established on 11 September and 24 September relating to the Engager forces which were now located in the Stirling area. The committee of 11 September was composed of four ministers and two lay elders, whilst that of 24 September consisted of five ministers and two lay elders. Sir George Winraham of Liberton (Edinburgh) and George Dundas of that Ilk (Linlithgow) were the two elders included on both committees.

Military service and employment in civil office were linked in the remits given to committees appointed throughout September and October. One such committee established on 15 September was to "consider what course shall be fittest for preventing the imployment of any in the Armie or in publik places of trust that are not of knowne integrity."¹⁴ Sir George Maxwell of Nether Pollok (Renfrew) and William Muir of Glanderston formed the lay membership of the committee, which was dominated by seven ministers. A committee for considering public sins and duties, whose lay membership consisted of Lord Angus, Wauchope of Niddrie (Edinburgh), Winraham of Liberton (Edinburgh) and George Porterfield (Glasgow), had been established on 19 September. The following day it was ordered to meet with a subcommittee of the committee of estates "for classing persons that have had accession to the Engagement".¹⁵ On 22 September the committee was ordered to meet to determine on what should be done for acknowledging the public sins of the land. On 4 October the committee was ordered to reconvene to determine, among other things, "what

¹³ *Ibid.*, 51.

¹⁴ *Ibid.*, 59.

¹⁵ *Ibid.*, 61, 67-8.

censure to appoint for these that have had accession to the late Engagement in Warre with England".¹⁶

The conclusions of the committee for public sins and duties were incorporated in legislation of 6 October. The previous day, 5 October, a delegation of Argyll, Johnston of Wariston (Edinburgh) and George Porterfield (Glasgow) arrived from the committee of estates "desiring that course may be taken for punishing and suppressing Malignants and such as hes aymed for a breach of the Vnion betuixt the Nations, and that they be not admitted to places of publik trust and publik counsellis".¹⁷ The commission of the kirk legislated for the renewal of the Solemn League and Covenant. Those who had been involved in the Engagement were barred from renewing the Covenant¹⁸ and were also barred from ecclesiastical office. This legislation was applied to four main groups; firstly, those who had been under the command of Hamilton's Engagement army; secondly, those who had been with the forces of Lanark in the Stirling area; thirdly those who had taken and subscribed any oaths, bands or declarations in favour of the Engagement or any other oaths and bands which had been condemned by the General Assembly; and fourthly, those who had been "seducers of others to joyne in the said Engagements and services so destructive to Religion, or have been active promoters thereof".¹⁹ The commission clarified the terms and conditions required for current military service in the armed forces on 11 October; no Engager soldiers were to be allowed, and all troops were required to take the Solemn League and Covenant.²⁰

Yet the committee of estates had already regulated its own membership conditions on 22 September. The act anent the constitution of the committee stated that the committee of estates was to consist only of those members who had been included on the committee of estates of 9 June and who had opposed the Engagement in parliament.

¹⁶ *Ibid.*, 77-8.

¹⁷ *Ibid.*, 77.

¹⁸ *Ibid.*, 79-80. The legislation does not stipulate whether this relates merely to the Solemn League and Covenant and/or the National Covenant.

¹⁹ *Ibid.*

²⁰ *Ibid.*, 106-7.

The parliamentary opposition to the Engagement was to form the core of the committee and was to be complemented from the localities by two representatives of the shires and one representative of the burghs. Those who had been involved militarily in the Engagement, or had subscribed oaths and bands in its favour, or had aided and assisted the residue of Engager forces under Glencairn, Lanark and Crawford-Lindsay, were excluded from the committee. In a separate piece of legislation, no supporters of the Engagement were to be elected as commissioners of shires and burghs to the next parliament, nor were they to be admitted to offices of public trust.²¹

The respective dates of enactment of anti-Engager legislation by the commission of the kirk and the committee of estates clearly indicate that it was the committee of estates which was taking the initiative. Employment in the “state” offices of the committee of estates and parliamentary representation had not been dictated to by the commission of the kirk, albeit its advice and consultation was sought, but only after the decision had already been made.

Much controversy has surrounded the extent to which Oliver Cromwell was responsible for the policy of removal or exclusion of Engagers from public office.²² At the diet of 19 September the commission was asked by the committee of estates “whether it be lawfull in case of necessity to seek from the Parliament and Kingdome of England assistance of such forces as subscribe the League and Covenant”. After “serious debate” the commission of the kirk eventually agreed that this was acceptable, but only on these two conditions; firstly, that the “Doctrine, Discipline and Government” of the Church of Scotland be maintained, secondly, that ministers of the kirk be sent to “disperse unto them the ordinances such as are Presbyterians and approven by the Synod of Divines”.²³ At the morning diet of 20 September a committee consisting *solely of six ministers* was

²¹ Scottish Record Office, PA 11/7, Register of the Committee of Estates 22 Sept. 1648 - 2 Jan. 1649, fos. 1, 7.

²² See, for example, W. Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh, 1977), 134; G. Donaldson, *Scotland: James V-James VII* (5th edn., Edinburgh, 1987), 338-9.

²³ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 61.

formed to consult the committee of estates “vpon what termes the English Army comes to this kingdome”. Robert Douglas reported the conclusions of the deliberations of the subcommittee with the committee of estates at the afternoon diet of 20 September. He reported that the committee of estates “had not given any call to the English to come in, But on the contraire, hearing that they wer come in to this countrey, they had resolved to send the Marquis of Argyle with some others, with instructions to labour that the whole Armie may not come, but such a partie as give least offense to this Kirk”.²⁴

In the aftermath of the fall of Berwick, the English parliament formally approved Cromwell’s march into Scotland. The unfolding of events is described by a contemporary English commentator.²⁵ His instructions from the English parliament required him to “give that Kingdom what assistance the present Committee of Estates should desire”.²⁶ Cromwell proceeded to march from Berwick to Edinburgh, but stopped at the earl of Winton’s house six miles from the capital. Cromwell intended to have his headquarters here “to the end he might, with more expedition and conveniency, advise with the States how to improve his strength to their best advantage, and to the welfare of both the Kingdoms”.²⁷ Between Wednesday 4 October and Saturday 7 October a delegation of English army officers, including Cromwell, were based at Lord Murray’s house in Edinburgh, where they were welcomed and entertained by the committee of estates. This included Cassillis, Argyll, Burleigh, Leven, Loudoun and Johnston of Wariston. The English delegation was “frequently visited by several of the Lords and Commons” within this three day period.²⁸ On Thursday 5 October

²⁴ *Ibid.*, 63.

²⁵ Glasgow University Library, Ogilvie Collection, Ogilvie 668, *A True Account of the great Expressions of Love from the Noblemen, Ministers & Commons of the Kingdom of Scotland unto Lieutenant General Cromwel, and the officers and soldiers under his command. Whose mutual love each to other is hoped to be the beginnings of a happy Peace to both Nations. Declared in a Letter to a Friend* (London, 1648).

²⁶ *Ibid.* (3).

²⁷ *Ibid.*

²⁸ *Ibid.* (4).

a delegation from the commission of the kirk, consisting of David Dickson, Robert Blair and James Guthrie, attended the delegation and expressed “with much affection their thankfulness” to Cromwell and his army “for their seasonable and brotherly assistance to the godly people of that Nation, and blessing God that he had sent such to their help who conscientiously expressed much civility to the Country”.²⁹ In the period between 4 October and 7 October, or possibly afterwards, decisions were being made concerning the situation of the Engagers in Scotland. The “godly people” in Scotland had begun to “act upon the same grounds and principles with us; and be confident of it, that Malignants, under what shape soever, shall be much disappointed of any hopes or encouragements from Scotland. The States have already unanimously resolved to model a standing Army, which shall be commanded only by such as are godly and consciencious, and for that purpose have yet further resolved and declared, That all such who have acted or countenanced the late Engagement, shal be suspended from executing of any place of trust in the Common-wealth”.³⁰ In order to facilitate this process, two regiments of horse and two troops of dragoons were left behind after the English military force had moved on.³¹

The key date centres on 5 October 1648. Cromwell’s own correspondence to the committee of estates on 5 October (and dated at Edinburgh) demanded the exclusion of Engagers from public office.³² Therefore it does appear that the delegation from the committee of estates which attended the commission of the kirk on 5 October did so in reaction to receiving Cromwell’s directive. Subjugation to Cromwell was made easier by the fact that he had indicated the “readiness of the kingdom of England to assist you who were dissenters from the Invasion” (meaning the Engager invasion).³³ When Cromwell left

²⁹ *Ibid.* (5).

³⁰ *Ibid.* (7)-(8).

³¹ *Ibid.* (8).

³² *The Writings and Speeches of Oliver Cromwell*, ed. W.C. Abbott (Cambridge, 1937-39), i, 663-4. The volume also documents in detail Cromwell’s advance and stay in Scotland in early October 1648.

³³ *Ibid.*, 664.

Edinburgh on 7 October the military aid left behind under the command of Lambert facilitated the stabilisation of the new regime. Cromwell had secured a "bloodless triumph in Scotland",³⁴ whilst the radical regime had secured its factional base propped up by foreign military assistance. On 7 October 80 individuals, consisting mostly of gentry, were added to the committee.³⁵ Despite the political consolidation of the regime, it would be unwise to label it as a "puppet government".³⁶

Common membership between the commission of the kirk and the radical parliament of 1649

The parliamentary rolls of 4 January 1649 indicate a membership of 16 nobles, a minimum of 46 gentry, and a minimum of 50 burgesses.³⁷ Nine of the 16 nobles (56%), 11 of the 46 gentry (24%), and seven of the 51 burgesses (14%) recorded in the parliamentary rolls of 4 January 1649 were also members of the commission of the kirk established on 11 August 1648.³⁸ Yet only a small minority of these lay

³⁴ *Ibid.*

³⁵ Scottish Record Office, Register of the Committee of Estates, 22 Sept. 1648 - 2 Jan. 1649, fo. 11.

³⁶ W. Makey, *The Church of the Covenant 1637-1651. Revolution and Social Change in Scotland* (Edinburgh, 1979), 76.

³⁷ *APS*, vi, ii, 124-126. Due to technical problems with the membership data for the shires and burghs, maximum and minimum attendance data have been constructed. Minimum data indicates those commissioners of the shires and burghs who are definitely listed in the rolls. For fuller details see Young, "Scottish Parliament", iii, 1207-10.

³⁸ *APS*, vi, ii, 124-126; *Records of the Kirk*, 514-15. The nine nobles were Argyll, Eglinton, Cassillis, Borthwick, Torphichen, Balmerino, Burleigh, Coupar and Kirkcudbright. The eleven gentry were Johnston of Wariston (Edinburgh), Winraham of Liberton (Edinburgh), Sir Arthur Erskine of Scotsraig (Fife), Sir James Halket of Pittfirrane (Fife), George Dundas of Duddingston (Linlithgow), Alexander Brodie of that ilk (Elgin), Sir Thomas Ruthven of Frieland (Perth), Arthur Forbes of Echt (Aberdeen), Maxwell of Nether Pollok (Renfrew), Sir James Fraser of Brae (Inverness) and Robert Monro of Obstaill (Inverness). The seven burgesses were Sir James Stewart (Edinburgh), James Sword (St Andrews), George Porterfield (Glasgow), Robert Barclay (Irvine), Gideon Jack (Lanark), John Brown (Jedburgh or Burntisland) and James Campbell (Dumbarton or Linlithgow). "John Brown" and "James Campbell" are listed in both sources and four separate

elders were in semi-regular attendance according to the 44 recorded sederunts of the commission of the kirk between 12 August 1648 and 4 January 1649. Of the nine nobles, Argyll had the highest attendance figure of seven diets. For the gentry, Winraham of Liberton (Edinburgh) attended 26 diets and Dundas of Duddingston (Linlithgow) 10 diets. Robert Barclay (Irvine) and George Porterfield (Glasgow) each attended 14 diets for the burgesses, whilst Sir James Stewart (Edinburgh) attended nine diets.³⁹

From a different perspective, six of the 16 nobles (38%), 18 of the 46 gentry (39%), and nine of the 51 burgesses (18%) included in the parliamentary rolls of 4 January 1649 were also included as members of the *new* commission of the kirk established on 4 August 1649.⁴⁰ The Third Session of the Second Triennial Parliament convened on 23 May 1649 and was composed of 20 nobles, a minimum of 49 gentry, and a minimum of 50 burghs.⁴¹ Eight of the 20 nobles (40%), 19 of the 49 gentry (39%) and 10 of the 50 burgesses (20%) who were included in the parliamentary rolls of 23 May were also included in the new commission of the kirk of 4 August 1649.⁴² The Third Session of the Second Triennial Parliament was in progress from 23 May until 7 August and attendance of this group of lay elders was virtually non-existent. Parliament and not the commission of the kirk appears to have taken priority.⁴³

individuals were present in parliament for their respective burghs. See *The Parliaments of Scotland. Burgh and Shire Commissioners*, ed. M. Young (Edinburgh, 1992), i, 73, 102-3).

³⁹ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 7-139.

⁴⁰ *APS*, vi, ii, 124-6; *Records of the Kirk*, 549-50. Noble membership of the new commission of the kirk amounted to 10, whilst that of the burgesses amounted to 14. Therefore, the comparative figures are six out of 10 nobles and nine out of 14 gentry.

⁴¹ *APS*, vi, ii, 277-8.

⁴² *Ibid.*; *Records of the Kirk*, 549-50. This amounts to eight of the 10 nobles and 10 of the 14 burgesses on the commission of the kirk.

⁴³ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 241-88.

A core grouping of four nobles, six gentry, and four burgesses were members of both commissions of the kirk of 11 August 1648 and 4 August 1649, and were recorded in both parliamentary rolls of 4 January and 23 May 1649. Argyll, Eglinton, Cassillis and Burleigh formed the contingent of four nobles. Winraham of Liberton (Edinburgh), Brodie of that ilk (Elgin), Erskine of Scotsraig (Fife), Ruthven of Freeland (Perth), Forbes of Echt (Aberdeen), and Fraser of Brae (Inverness) formed the body of six gentry. James Sword (St Andrews), George Porterfield (Glasgow), Robert Barclay (Irvine), and James Campbell (Dumbarton or Linlithgow) were the grouping of four burgesses.⁴⁴

Analysis of raw membership data suggests that a caucus existed of parliamentary members who were also lay elders of the commission of the kirk. Technically this is correct, but attendance analysis suggests that kirk and parliament enjoyed separate spheres of influence. Those members of parliament who were also lay elders obviously met with the approval of the church; yet they were failing to attend the proceedings of the commission on a regular basis. Perhaps they were representing the interests of the kirk in parliament, or perhaps they viewed parliament as the more important institution and wanted to distance themselves from the numerically superior ministers on the commission itself.⁴⁵

The commission of the kirk, the consolidation of the radical regime and
the Second Session of the Second Triennial Parliament,
4 January-16 March 1649

Thirty-four sederunts of the commission of the kirk are recorded during the parliamentary session.⁴⁶ That parliament and not the commission of the kirk was the dominant institution for those lay elders was reflected in their attendance data between 4 January and 16 March. Attendance

⁴⁴ APS, vi, ii, 124-6, 277-8; *Records of the Kirk*, 514-15, 549-50.

⁴⁵ Stevenson, *ante*, xix (1977), 79, argues that the state and not the kirk was of paramount importance for the lay elders.

⁴⁶ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 139-240.

of lay elders was dominated by a small core of activists; Alexander Pearson, Alexander Pringle of Whitbank, Alexander Colville, Robert Burnet, and William Brown.⁴⁷ It was in this session that the radical regime established itself in real terms. The purging of office holders, as exemplified in the act of classes of 23 January, was the hallmark of the session. Officers of state and lords of session were purged, and a new privy council was formed. In *de facto* political terms, only radicals were allowed to serve in parliament.⁴⁸

The commission itself established what amounts to a standing subcommittee to galvanise resources to lobby parliament in order to secure enactment of legislation amenable to the kirk. On 5 January, the day after the opening of the parliamentary session, a “committee for a conference with a committee of parliament” was formed. It was composed of 19 ministers and eight lay elders and was to be “a Comittee for conference vpon publick bussiness, and to prepare an report, as also to conferr with a Comittee of Parliament from time to tyme”.⁴⁹ Its lay membership consisted of Sir John Hope of Craighall, Wauchope of Niddrie, Dundas of that ilk, Alexander Pringle of Whitbank, Alexander Pearson, Alexander Colville, Thomas Murray and Robert Burnet. None of the lay elders were members of parliament as per 4 January 1649.⁵⁰

What is important, however, is that it was parliament who had petitioned the commission of the kirk to establish such a committee. A parliamentary delegation had attended the commission on 5 January. The delegation requested that ministers be appointed for a “solemn fast and humiliation” for members of parliament prior to the members’

⁴⁷ Of a total of 34 recorded sederunts, Pearson and Burnet attended 31 diets, Whitbank attended 27 diets, whilst Colville and Brown attended 21 diets (*The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 139-240).

⁴⁸ See Young, “Scottish Parliament”, i, 351-63.

⁴⁹ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 146-7.

⁵⁰ APS, vi, ii, 124-6.

renewal of the Solemn League and Covenant and that ministers be chosen to preach to them each Sunday.⁵¹

This standing subcommittee was issued with a wide-ranging agenda on 12 January to consult with and lobby parliamentary committees for enactment of a programme of social and ecclesiastical reform; firstly, to consult on “overtures for suppressing of prophanitie and taking course with excommunicat persons”; secondly, on “suppleing of the poore”; thirdly, on “setling of schools”; fourthly, to identify “all mortified rents and how they are imployed”; fifthly, to enhance the “prosecution of comissions for planting of kirks, As also the visitatioun of hospitalls”; and sixthly, “the disclaiming of the Ingagement, and purging of the judicatories and armies”.⁵² In addition, the committee was also to consider all petitions that were to be presented to the next General Assembly. In this respect, the commission of the kirk as an administrative institution of the kirk was clearly functioning in like manner to the committee of estates within the forum of parliament.

The commission of the kirk as an effective lobbying agent: social control, moral reform, and ministerial gain

The subcommittee of 5 January undertook the lobbying of parliament in an aggressive manner throughout January and February. It pushed for parliamentary enactment of what may be termed as “theocratic” legislation. On 19 January it argued for “punishing of incest by death”, that “degrees of incest” be established, and that a formal table be drawn up indicating “the forbidden and unlawfull degrees of

⁵¹ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 146. The Solemn League and Covenant was renewed by the House on 12 Jan. A delegation from the commission was sent to the parliament on 13 Jan. “to be witnesses to their subscribing of the league and Covenant, which they have now againe sworne and renewed” [my italics] (*ibid.*, 152). The delegation was therefore appointed after the parliamentary members had actually renewed/sworn the Solemn League and Covenant. The delegation itself included three lay elders (Pringle of Whitbank, Alexander Pearson, and Sir Alexander Inglis of Ingliston) as well as five ministers.

⁵² *Ibid.*, 150.

consanguinity and affinity for marriage".⁵³ Particular emphasis was placed by the commission as a whole on securing the abolition of patronage of church lands. A constant lobbying process of parliament was underway throughout January and February and it resulted in successful parliamentary legislation of 9 March which abolished patronage of church lands.⁵⁴ Patronage was considered "prejudiciall to the Liberties of the people and planting of kirks and unto the frie calling and entering of ministers unto thair charge",⁵⁵ but in reality it weakened the ties and obligations of the ministry on the nobles and gentry.⁵⁶ Indeed the passage of the act produced a parliamentary walkout by the earl of Buccleuch and some (undefined) others. Contemporary evidence of the influence of the church was provided by Sir James Balfour: "current was carried for the presbeteries and churche way in respecte Argyle, the Chanceler [Loudoun], and Arch: Johnston, the kirks minion, durst doe no wtherwayes, lest the leaders of the church should desert them, and leaue them to stand one their auen feeit, wich without the church non of them could weill doe".⁵⁷

Lobbying was neither restricted to the subcommittee of 5 January, nor to the issue of abolition of patronage *per se*. Five ministers and four lay elders (Wauchope of Niddrie, Alexander Pearson, Alexander Colville, and Robert Burnet), along with the presbytery of Edinburgh, were appointed on 9 February "to attend the Parliament, and seek an answeare to the Overtures and Desires tendered to the Parliament, and to

⁵³ *Ibid.*, 152, 178. The initiative for punishment of incest by death came from the parliamentary session committee, the committee for overtures.

⁵⁴ A subcommittee of five, including Samuel Rutherford, was formed on 25 Jan. to draw up a draught petition on the subject (*ibid.*, 179). This petition had been drawn up by 30 Jan. (*ibid.*, 181). On 14 Feb. Samuel Rutherford and James Wood were instructed by the commission to "draw up reasons to shew the unlawfulness of Patronages, and to give them to these that attend the Parliament to be made vse of" (*ibid.*, 202). This latter petition, "The Humble Supplicatioun of the Generall Assembly vnto the Honourable Estates of Parliament", had been completed by 30 Feb. (*ibid.*, 205-11).

⁵⁵ APS, vi, ii, 261.

⁵⁶ Donaldson, *Scotland: James V-James VII*, 339-40; D. Stevenson, *Revolution and Counter-Revolution in Scotland, 1644-51* (London, 1977), 137-9.

⁵⁷ Sir James Balfour, *Historical Works*, ed. J. Haig (Edinburgh, 1824-25), iii, 391.

doe all things necessaire for that effect ... as also that they deale with the Parliament for provyding some maintenance to Ministers to attend the Army”.⁵⁸

That the subcommittee operated successfully and efficiently is reflected in the series of parliamentary acts of February and mid-March 1649. Taken as a whole, this legislation amounts to an unprecedented degree of social control and moral conduct from central government to the Scottish localities, with local kirk sessions and presbyteries acting as law-enforcement agencies on behalf of church and state.⁵⁹ Much of this legislation had a theological foundation in the sense that it was designed to drive out and exterminate sin to avoid the wrath of God. The crime of blasphemy (as defined by parliament) and worshipping of false Gods was to be punishable by death without pardon.⁶⁰ The sentence of punishment by death without mercy was also to be applied to both sons and daughters above the age of 16 who “ather beat of curse ather their father or their mother”. The overall social goal of this was to provide a model of social behaviour within the confines of the family and to ensure “That others may hear and fear and not doe the Lyk”.⁶¹ Biblical sanction of God’s word was provided as the justification for punishment of incest by death, which secured parliamentary enactment on 9 July 1649. Consanguinity and sexual behaviour were regulated, in considerable detail, in a parliamentary table of 9 July. Part of the explanation behind this legislation was to “provide a sufficient remedy against all these evils, and that the wrath of God (which could not but lie heavy upon the Land, by impunity of such abominable crimes) may be overtred”. The drawing up of the table

⁵⁸ *The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 200.

⁵⁹ A selection has been made of the most important items of this type of legislation. Other supplementary legislation was enacted, such as legislation in favour of hospitals (13 Feb.) and an act against “scandalous persons” (13 Feb.) (*APS*, vi, ii, 183-4).

⁶⁰ *Ibid.*, 208.

⁶¹ *Ibid.*, 231.

indicating degrees of incest was primarily designed to ensure "that such persons may be the better known".⁶²

The harmonization and regulation of social behaviour was similarly extended to the wider community, notably by the means of fining. The act against fornication of 1 February established four levels of fines for those convicted of fornication; £400 for each noble, £200 for each "barone and Landed gentleman", £100 for any other "gentleman or burgess", and "every other person of inferior quality" £10 each. Gender equality was applied to this crime with female offenders facing the same fines per rank as their male counterparts.⁶³ Regulation of marriage procedure was incorporated in the act anent "clandestine marriages" of 13 February. Marriage ceremonies which had been conducted by Jesuit priests, or by deposed or suspended ministers, would no longer be recognised by church and state in the future. The conductors of such ceremonies were to be banished from the kingdom for life and were to face death if they ever returned. Those individuals who continued to marry under such circumstances faced heavy punishment; three months' imprisonment and fines of £5000 per noble, 5000 merks per "baron and landed gentleman", £1000 per "gentleman and burges", and 500 merks for any other person.⁶⁴ Fining was also applied to those found guilty on a regular basis of drunkenness and those who were "Scolders filthie speakers and makers or singers of badie songs".⁶⁵

⁶² *Ibid.*, 475, 476.

⁶³ *Ibid.*, 152-3. By 23 May 1650 the commission of the kirk was advocating the punishment of "adulterie with a single woman by death" (*The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 411).

⁶⁴ *APS*, vi, ii, 184. One merk was equivalent to two-thirds of the pound Scots. 5,000 merks therefore had the equivalent value of *circa* £3,333.

⁶⁵ *Ibid.*, 174. This act was essentially a renewal of legislation passed during the Fourth Session of the First Triennial Parliament on 7 Aug. 1645 (*APS*, vi, i, 458). The former legislation was extended in terms of fining to those who now faced their fourth conviction for such offences; £400 per noble, 400 merks per baron, 200 merks per "gentleman, heritor and burges", £40 (*circa* 27 merks) per "yeoman", and £20 (*circa* 13 merks) per servant. As an item of class legislation, the fining levels at the lower end of the scale suggest that drunkenness and anti-social behaviour was more prevalent within the lower socio-economic strata. On a different note, two items of

Many of these sentiments were incorporated within the act “anent the poore” of 28 February, which constituted an attempt to solve the problem of the poor by controlling the movement and location of the vagrant population. Levying, taxation, plague, dislocation caused by warfare, and a marked increase in grain prices throughout the 1640s had all contributed to a severe intensification of the problem.⁶⁶ Ostensibly this was on the grounds of “shame and reproach of our christaine professioun which obleidgeth us to the releiss of our poore bretherne as being members of the same bodie”.⁶⁷ Christian charity, the community ideal and localism were emphasised. It was the communal responsibility of each parish and presbytery to look after its own poor. Twice per year, on 1 December and 1 June, a list of the poor within each parish or presbytery was to be drawn up. Voluntary and charitable contributions within each parish were to be based on such lists. The minister and elders of each parish were to meet with their local presbytery to establish the burden of the poor within their own communities. Where funds from the common good and weekly contributions were insufficient to cover the costs of this burden, then powers were accorded to the presbytery to raise a stent on each of the parishes within that unit. Nevertheless, several criteria were laid down relating to the section of the poor which was eligible for poor relief. Those who were “sloathfull and able by the Labour of your hands to win your owne Livings” were ineligible and distinction was to be made

legislation were passed on 13 Feb. concerning the death penalty. The act against remissions and respites stated that there was to be no remission or respite for those who were to be punished with the death penalty. Too many remissions had been given to those who had been found guilty of crimes whose punishment was death. This had resulted in the kingdom being polluted with sin and “A Doore opened unto the committing of many hainous Crymes without fear through hope of impunity and the Lord provoked in his wrath to plague the Land” (*APS*, vi, ii, 173). Secondly, the death penalty was not to be applied to those who had murdered thieves, robbers, and burglars through self-defence (*ibid.*).

⁶⁶ Stevenson, *Revolution and Counter-Revolution*, 139.

⁶⁷ *APS*, vi, ii, 220. Poverty appears to have been on the increase as a collective result of the problems of levies, taxation and plague from a decade of upheaval and military conflict (Stevenson, *Revolution and Counter-Revolution*, 139).

between the pious and the “prophane Debaucht and Drunken sort”.⁶⁸ The problem of begging was to be solved by compulsory labour; those who were fit to work and earn a living but who had taken to “a Trade of begging” were to be apprehended by kirk elders and put to employment to ensure that “the Countrey may be eased of ane unprofitable burthene and lauffull industrie maintayned throw the Land”.⁶⁹ Door-to-door begging was punishable by imprisonment and those who aided or relieved vagabonds faced a fine of £5. Vagrants were to be returned to the parish of their birth, where they were to be assessed and treated as one of the local poor and put to work, if fit to do so, within their native parish and they were not to be “permitted to wander over the kingdome as before”. Any sheriff or local magistrate who refused to take them was to be suspended from office and faced a fine of £40.

Consideration of the remaining sections of the parliamentary enactment reveals the presence of almost reactionary and coercive forces allowing for forced labour. Firstly, the Estates delegated authority to any of the king’s subjects to “Tak and apprehend such ydle and sturdie beggars and to employ tham or dispose of thame to be employed be others in wark for thair meat and cloth allanerly”. Secondly, a problem remained concerning those beggars and vagabonds who were lame, blind, weak or elderly. It would be unlikely that these groups would be able to return to their native parish. Therefore, they were to be included in the poor of the presbytery in which they were apprehended. A list of these individuals was to be drawn up within each presbytery and sent to the committee of estates or privy council. These central bodies were then to “divyd and proportioun these supernumeraries amongst such presbitries and shyres of the kingdome as haue least burthen”.⁷⁰ This amounts to the compulsory movement and division of labour on a national basis of the weakest elements of the vagrant population.⁷¹

⁶⁸ *APS*, vi, ii, 220-1.

⁶⁹ *Ibid.*, 221.

⁷⁰ *Ibid.*

⁷¹ Whether or not this was effectively implemented remains a matter of speculation. By 23 May 1650 the commission of the kirk was still lobbying

Yet it was not the case that there was a lack of Christian compassion and concern for the lower socio-economic orders. For example, on 31 May 1649 a committee for grievances was established to remedy grievances of tenants who were being oppressed by their masters. The session committee consisted of three per estate and seven of the nine members were also commissioners of the kirk as per 11 August 1648. In July commissioners in each presbytery, at the behest of the kirk, were also appointed to investigate grievances. On 27 July the House legislated in favour of one "Kathrine Findlay" who was due £420 as arrears of pay for her husband who had been killed in the public service at the Battle of Kilsyth in 1645; this money was to be paid to "hir and hir faitherles childrine". Likewise, on 3 August legislation was passed in favour of widows, orphans and lame soldiers as casualties of the military invasions of England (but not the Engagement).⁷²

Further indications of the extension of social control can also be evidenced by examination of parliamentary considerations of, and reactions against, the "spread" of witchcraft in 1649. Lamer has identified "five peaks of intensive prosecution" of witchcraft in early modern Scotland and has classified 1649 as one of those peaks.⁷³ She also distinguished between "national" and "local" hunts and places 1649 in the former category.⁷⁴ Throughout the 1640s the general assembly had been lobbying parliament to take action against sorcerers and charmers. On 1 February punishment by death was included in legislation enacted against witches and sorcerers, and the witchcraft act of 1563 was ratified once more. The parliamentary records indicate a flurry of legislation enacted throughout late June, July and August 1649 relating to commissions granted for the trial and execution of

parliament to "execute the act restraining beggars and vagabonds" (*The Records of the Commissions of the Church of Scotland, 1648 and 1649*, 413-14).

⁷² APS, vi, ii, 388, 502, 520; *Records of the Kirk*, 514-15; Stevenson, *Revolution and Counter-Revolution*, 139-40.

⁷³ C. Lamer, *Enemies of God. The Witch-hunt in Scotland* (London, 1981), 60. 1590-91, 1597, 1629-30, and 1661-62 constitute the remaining four peaks; Stevenson, *Revolution and Counter-Revolution*, 140-5.

⁷⁴ Lamer, *Enemies of God*, 61-2.

witches.⁷⁵ Over 350 commissions for trials of witches were issued by the committee of estates between the close of the Third Session of the Second Triennial Parliament on 7 August and December 1649.⁷⁶

The Fifth Session of the Second Triennial Parliament (15 May – 5 July 1650) appointed a specialised session committee on 18 May 1650 to “considder of the depositions and others papers to be givin in concerning witchis”. The committee was to report its consclussions to Chancellor Loudoun to “subscryve warrands to putt to tryalle or executione”.⁷⁷ The committee was composed of three per estate and all members were influential radical covenanters. Tweeddale, Balmerino and Burleigh represented the nobility, Sir James Hope of Hopetoun (Stirling), John Hepburne of Wauchton (Haddington) and Robert Hepburn of Keith (Haddington) represented the gentry, whilst John Hay (Elgin), Robert Barclay (Irvine) and Thomas MacBirnle (Dumfries) represented the burgesses. Balmerino, Burleigh, Wauchton, Barclay and MacBirnle were all members of the commission of the kirk established on 4 August 1649.⁷⁸ This provides evidence of increased state control over the “witch-hunt”, but the effectiveness of the committee has been doubted and in November 1650 it was dissolved and its remit was transferred to the committee for bills.⁷⁹ This legislative transfer took place on the exact day that the committee for bills itself was formed, and was due to the submittal of cases directly to parliament. Three per estate formed the membership of the committee for bills, but only one noble and one laird were members of the commission of the kirk established on 4 August 1649; Burleigh and Sir William Scott of Harden, elder (Selkirk). In addition, one further member of the session committee, George Garden (Burntisland), was a

⁷⁵ APS, vi, ii, 152, 420, 453, 464, 484, 479, 497, 498, 506, 510, 516, 518, 538. The geographical distribution of the 1649 “outbreak” was focused on Fife, the Lothians and the Borders; this is reflected in the parliamentary commissions (Larner, *Enemies of God*, 80).

⁷⁶ Larner, *Enemies of God*, 74. These commissions were concentrated in East Lothian and Berwickshire.

⁷⁷ APS, vi, ii, 563-4.

⁷⁸ *Ibid.*, 565; *Records of the Kirk*, 549-50.

⁷⁹ Larner, *Enemies of God*, 74-5; APS, vi, ii, 608.

prominent radical parliamentary burgess. Garden's inclusion is interesting as the parishes of Burntisland, Dalgety and Coldingham had been under parliamentary investigation for witchcraft in July 1649.⁸⁰ By November 1650 there had been a sharp drop in the number of "witchcraft cases" and the desire for trials and executions appears no longer to have been there; on 2 December parliament stated that the magistrates of Dumbarton were to release three persons who had been accused of witchcraft.⁸¹

The outbreak of another witch-hunt in 1649 should not be considered as an isolated event and must be viewed within the context of the reactionary social legislation enacted between 4 January and 16 March 1649. Taken collectively, they should be considered as an integral component in the establishment of a "covenanted state".⁸² Within a wider European perspective, developments in Scotland had a parallel in post-Reformation Europe in the dual features of the creation of a "godly state" and the need to safeguard the "moral purity of society".⁸³ Witchcraft was just one of the elements to be punished as part of this moral crusade; punishment of fornication, adultery and prostitution was part of the same process. In short, "the state, often acting under clerical pressure, became a guardian of individual morality".⁸⁴

⁸⁰ APS, vi, ii, 479, 609; *Records of the Kirk*, 549-50; Larner, *Enemies of God*, 75. The remaining members of the committee for bills were Buccleuch and Balcarres for the nobility, James Rollock, younger, of Duncrub, and Alexander Strachan of Glenkindie for the gentry, with John Jaffray (Aberdeen) and William Simpson (Dysart) for the burgesses. A local study of witchcraft has indicated a sharp increase in accusations of witchcraft in south-west Fife in 1649, despite the fact trials had virtually died out between 1645 and 1648. The presbytery of Dunfermline played a pivotal role in the investigation of these accusations, which were largely based on coastal parishes; R.A. Bensen, "South-west Fife and the Scottish Revolution: the Presbytery of Dunfermline, 1633-1652" (University of Edinburgh, M.Litt. thesis, 1978), 184-9.

⁸¹ APS, vi, ii, 614.

⁸² Larner, *Enemies of God*, 74.

⁸³ B.P. Levack, *The Witch-hunt in Early Modern Europe*, (2nd edn., London, 1981), 112.

⁸⁴ *Ibid.*

Improvements in the condition of the ministry were secured in real terms by the act of 14 March for augmentation and provision of ministers. This focused on stipend provision and accommodation details. Where manses and glebes had not already been built, then three ministers and three elders from the presbytery were ordered to build “competent manses” for their ministers. Expenditure levels for this purpose were set at a ceiling of £1,000 and a floor of 500 merks. Where “competent manses” were already in existence, then heritors of parishes were instructed to relieve the minister of the upkeep of his manse in terms of all charges, costs and expenses for necessary repair work. Instead, this financial obligation was to be met by the heritors themselves.⁸⁵ Detailed provisions were made to improve the payment of ministers’ stipends.⁸⁶ Four arguments were advanced to secure a pay rise for the ministry. Financial hardship had resulted in “severall Ministeris of the gospell [being] discouraged and distracted from thair calling”. Firstly, some had suffered through “want of competent maintenance”, secondly, some through “want of legall securitie”, and thirdly, some through “want of tymerous and thankfull payment of thair stipendis”. Finally, price inflation in recent years had reduced the value of money and purchasing power in real terms. In short, therefore, an increase in stipends was necessary to maintain the status and standard of living of the ministry. Under the terms of the act, it was deemed lawfull for ministers who were not receiving “thankfull payment” of their stipends to “poynd appryse and distrenzie the readiest moveable guidis and geir vpon the ground of any of the landis pertening to the persones deficient in payment of thair stipendis according to the portiounes addebtet by them”. Moreover, this was to be carried out by

⁸⁵ *APS*, vi, ii, 277-88. Ministers were also to be provided with a horse and if glebes were not in the near vicinity of the manse then this situation was to be rectified by constructing new glebes near to the manse “as good in quantitie and qualitie as the former”.

⁸⁶ *Ibid.*. Much of this related to the differing levels of victual to be provided by parishes to ministers to meet their stipend levels. The commission for the plantation of kirks and valuation of teinds was accorded a supervisory and central role to ensure that stipends were to be paid on time.

“honest sworne men resideing within the bundis of the presbytrie”.⁸⁷ Once again, this provides a clear indication of powers being accorded to presbyteries in the Scottish localities.⁸⁸

Educational provision was concentrated on four parliamentary university commissions; St Andrews, Glasgow, Aberdeen and the “college” of Edinburgh. University commissions had been established by parliament on a regular basis throughout the 1640s. The remit of the 1649 commissions was primarily financial (for the adequate provision and financial solvency of university education), although there was also an underlying moral overtone. The commissioners were to “order the course of the studies of the youth and public professions And to rectifie what is amisse for the better breeding of youth in piety and Learning and advancement of the publict good of this kingdome and church”.⁸⁹

The St Andrews commission (16 January) consisted of 21 “lay” members and 13 ministers. Thirteen of the 21 lay members (62%) and 14 of the 19 ministers (74%) were members of the commission of the kirk established on 11 August 1648. The Glasgow commission (16 March) consisted of 18 lay members and 22 ministers. Ten of the 18 lay members (56%) and 11 of the 22 ministers (22%) were also commissioners of the kirk. Sixteen lay members and 26 ministers formed the membership of the Aberdeen commission (31 July). Only two lay members and 15 of the 22 ministers (68%) were also commissioners of the kirk. The Edinburgh commission (31 July) was composed of 26 ministers and 15 lay members. A high proportion of the Edinburgh membership, unsurprisingly, were also commissioners of the kirk; 21 of the 26 ministers (81%) and 11 of the 15 lay members

⁸⁷ *Ibid.*

⁸⁸ My interpretation of the coercive nature of this legislation differs somewhat from that of David Stevenson who sees it as an indication of greater social concern by the kirk in the “material welfare of lesser men, tenants and the poor, than previously” (*Revolution and Counter-Revolution*, 139). Although a committee for grievances was appointed during the Third Session of the Second Triennial Parliament on 31 May 1649 to remedy grievances of tenants at the hands of their masters and soldiers, the formation of this committee should also be viewed within the context of six committees which were established during this session relating to military matters and valuations in the shires (Young, “Scottish Parliament”, i, 373).

⁸⁹ *APS*, vi, ii, 138-9.

(73%). A core of eight nobles, seven gentry, and three burgesses included on all four university commissions, who were members of parliament as per 4 January and/or 23 May 1649, were also members of the commission of the kirk established on 11 August 1648. Argyll, Cassillis, Torphichen, Balmerino, Coupar, Burleigh, Eglinton, and Lothian formed the grouping of eight nobles. Johnston of Wariston (Edinburgh), Winraham of Liberton (Edinburgh), Wauchope of Niddrie (Edinburgh), Forbes of Echt (Aberdeen), Brodie of that ilk (Elgin), and Dundas of Duddingston (Linlithgow) formed the grouping of seven gentry, whilst James Sword (St Andrews), Robert Barclay (Irvine), and George Porterfield (Glasgow) represented the common burghal membership.⁹⁰

Collectively, close correlations in membership exist between all four educational commissions and the commission of the kirk. Nevertheless, quorum levels (minimum attendance levels) for each commission indicate that the influence of the numerically dominant ministry was to be checked or at least limited. This is perhaps unsurprising given the fact that all four commissions were technically parliamentary commissions and not subcommittees of the commission of the kirk. The St Andrews commission set a quorum level of nine, consisting of four ministers and five others “who are not Ministers”.⁹¹ A quorum level of 11 ministers was established for the Aberdeen commission, although no mention of lay members was made. The Edinburgh commission specified a quorum of 13, composed of nine ministers and four non-ministers. Lay influence was not to be marginalised.⁹²

⁹⁰ *Ibid.*, 323, 509, 509-10; *Records of the Kirk*, 514-15. John, 2nd Lord Balmerino, died on 1 Mar. 1649. “Coupar” became 3rd Lord Balmerino; *The Scots Peerage*, ed. J.B. Paul (Edinburgh, 1904-14), i, 568-9.

⁹¹ *APS*, vi, ii, 138-9.

⁹² *Ibid.*, 323, 509, 509-10. No quorum levels are specified in the Glasgow commission.

Correlations in membership: the commission of the kirk and
parliamentary session and interval committees. A case study of the
Second Session of the Second Triennial Parliament
4 January-16 March 1649

The membership of eight mainstream session committees and four interval committees have been compared with the lay membership of the committee of the kirk established on 11 August 1648. The commission retained a strong parliamentary influence, as evidenced by empirical analysis of selected session and interval committees.

The committee for dispatches was established as a session committee on 5 January with three essential remits. Firstly, it was to oversee all business concerning the army in Scotland; secondly, it was to oversee English and Irish affairs relevant to the kingdom of Scotland; thirdly, it was to liaise with the commission of the kirk. Including supernumeraries, the committee was composed of nine nobles, seven gentry and seven burgesses. Eight of the nine nobles, two of the seven gentry, and two of the seven burgesses had been members of the committee of estates of 9 June 1648.⁹³ On the other hand, three of the nine nobles, five of the seven gentry, and four of the seven burgesses were members of the current commission of the kirk.⁹⁴ Both sets of data indicate a radical rump in action, with respect to both the commission of the kirk and the previous committee of estates. Furthermore, three nobles and two lairds can be identified as a “subcore” of this radical

⁹³ *APS*, vi, ii, 102-5, 128. Argyll, Loudoun, Leven, Sutherland, Eglinton, Cassillis, Buccleuch and Balmerino formed the eight nobles, Johnston of Wariston (Edinburgh) and Erskine of Scotsraig (Fife) were the two gentry, whilst Hugh Kennedy (Ayr) and Robert Cunningham (Kinghorn) were the two burgesses who had been members of the committee of estates of 9 Jun. 1648.

⁹⁴ *Ibid.*, 128; *Records of the Kirk*, 514-15. Argyll, Eglinton and Cassillis were the three relevant nobles also included on the commission of the kirk. Johnston of Wariston (Edinburgh), Erskine of Scotsraig (Fife), Ruthven of Frieland (Perth), Winraham of Liberton (Edinburgh), and Sir George Maxwell of Nether Pollok (Renfrew) were the five gentry who were members of the current commission of the kirk. The relevant membership for the burgesses was Sir James Stewart (Edinburgh), George Porterfield (Glasgow), Robert Barclay (Irvine) and James Sword (St Andrews).

rump. Argyll, Eglinton, Cassillis, Johnston of Wariston (Edinburgh) and Erskine of Scotsraig (Fife) were members of the committee for dispatches, the current commission of the kirk, and the previous committee of estates of 9 June 1648. In this context, the committee for dispatches can be viewed as the institutionalisation of a radical rump in terms of the constitutional relationship between kirk and parliament, church and state.

Two nobles, one laird and one burgess included on the committee for overtures and laws of 5 January, and two nobles included on the committee for bills and ratifications of 5 January, were also members of the current commission of the kirk.⁹⁵ However, three nobles and one burgess included on the committee for overtures and laws, and one noble and one burgess included on the committee for bills and ratifications, had also been members of the previous committee of estates.⁹⁶ Cassillis and Balmerino, as members of the committee for overtures and laws, were members of both the commission of the kirk and the committee of estates. The same criterion applies to Loudoun as a member of the committee for bills and ratifications.

Of the remaining session committees, common membership with the commission of the kirk of 11 August 1648 was centred on the committee for common burdens, accounts, losses and monies of 18 January. Established as a specialised financial committee, it was composed of six per estate. Four nobles and one laird were also members of the commission of the kirk, whereas only one noble, Chancellor Loudoun, had been a member of the previous committee of estates. This appears to indicate that the influence of the commission

⁹⁵ *APS*, vi, ii, 128; *Records of the Kirk*, 514-15. Cassillis, Balmerino, Sir James Halket of Pitfirrane and Gideon Jack (Lanark) were the four members of the committee for overtures and laws who were members of the current commission of the kirk. Lords Torphichen and Coupar were the two nobles who were sole members of the committee for bills and ratifications who were members of the commission of the kirk.

⁹⁶ *APS*, vi, ii, 102-5, 128. Cassillis, Balmerino, Loudoun and Robert Cunningham (Kingham) were the relevant members of the committee for overtures and laws. Loudoun and John Hay (Elgin) were the relevant members of the committee for bills and ratifications.

was not limited to ecclesiastical and political affairs.⁹⁷ Four crucial interval committees were established prior to the close of the Second Session of the First Triennial Parliament on 16 March; the committee for money and accounts, the committee of estates, the committee for revising of laws, and the committee for the plantation of kirks and valuation of teinds.

The issue of legal reform (as part of the godly process) was delegated to the committee for revising the laws of 15 March. It consisted of 18 members many of whom were employed in a legal capacity. Eight of those 18 members (44%) were also included in the current commission of the kirk of 11 August 1648. Johnston of Wariston (Edinburgh), clerk register, Winraham of Liberton (Edinburgh), lord of session, Alexander Pearson of Southall, lord of session, and Thomas Murray, justice depute, were all employed in a legal capacity, as well as being commissioners of the kirk. Argyll, Maxwell of Nether Pollok (Renfrew), Sir James Stewart (Edinburgh), and Robert Barclay (Irvine) formed the five remaning commissioners for revising the laws who were also commissioners of the kirk. Only Argyll and Wariston had been included on the previous committee of estates of 9 June 1648.⁹⁸

The committee for money and accounts of 14 March was a distinct and separate committee from the committee for common burdens, accounts, losses and monies of 18 January. The interval committee of 14 March was to consider the single issue of public debt. Five per parliamentary estate formed its membership. Four of the five nobles, one of the five gentry, and three of the five burgesses were also members of the commission of the kirk of 11 August 1648.⁹⁹ Only two

⁹⁷ APS, vi, ii, 102-5, 141-2; *Records of the Kirk*, 514-15. Burleigh, Torphichen, Coupar and Kirkcudbright were the four nobles who were also members of the commission of the kirk. Forbes of Echt (Aberdeen) and James Campbell (Dumbarton or Linlithgow) were the lairds and burgesses who were also members of the commission of the kirk.

⁹⁸ APS, vi, ii, 102-5, 299-300; *Records of the Kirk*, 514-15.

⁹⁹ APS, vi, ii, 294-6; *Records of the Kirk*, 514-15. Argyll, Cassillis, Burleigh and Torphichen were the four nobles who were also members of the commission of the kirk. Ruthven of Frieland (Perth) was the one laird included on both committees.

nobles and one burghess on the interval committee had been members of the committee of estates of 9 June 1648; Argyll, Cassillis, and Hugh Kennedy (Ayr).¹⁰⁰ Argyll and Cassillis were also members of the commission of the kirk.

A new committee of estates was established by parliament on 14 March. Including supernumeraries, it consisted of 21 nobles, 30 gentry, and 29 burghesses. A radical core of seven nobles, two gentry and six burghesses had been members of the previous Engager-dominated committee of estates of 9 June 1648.¹⁰¹ Eleven of the 21 nobles (52%), 11 of the 30 gentry (37%), and 10 of the 29 burghesses (34%) on the new committee of estates were also members of the commission of the kirk of 11 August 1648.¹⁰² Indeed, only one of the eleven nobles on the commission of the kirk (Torphichen) did *not* gain membership of the new committee of estates. A large proportion of the commission of the kirk, most notably its noble section, appears to have been absorbed into the new committee of estates.

Including supernumeraries, the commission for the plantation of kirks and valuation of teinds of 15 March was composed of 22 nobles, 32 gentry and 23 burghesses. This was the one parliamentary committee which was of direct relevance to kirk interests. Eleven of the 22 nobles (50%), 13 of the 32 gentry (41%) and eight of the 23 burghesses (35%) were also members of the commission of the kirk of 11 August 1648.¹⁰³ As with the membership of the new committee of estates, this indicates a radical core originating from the commission of the kirk. Sixteen of the 22 nobles (73%), 23 of the 32 gentry (72%), and 18 of the 23

Robert Barclay (Irvine), Gideon Jack (Lanark) and George Porterfield (Glasgow) were the three burghesses who were also members of the commission of the kirk.

¹⁰⁰ *APS*, vi, 102-5, 294-6.

¹⁰¹ *Ibid.*, 102-5, 290-2. Argyll, Loudoun, Leven, Eglinton, Cassillis, Buccleuch and Lothian formed the grouping of seven nobles. Erskine of Scotsraig (Fife) and Johnston of Wariston (Edinburgh) were the two gentry who had been members of the previous committee. Hugh Kennedy (Ayr), George Garden (Burntisland), John Hay (Elgin), Gilbert More (Banff), John Forbes (Inverness) and James MacCulloch (Whithorn) formed the grouping of six burghesses included on the previous committee of estates.

¹⁰² *Ibid.*, 290-2; *Records of the Kirk*, 514-15.

¹⁰³ *APS*, vi, ii, 300; *Records of the Kirk*, 514-15.

burgesses (78%) of the commission for the plantation of kirks and valuation of teinds also enjoyed membership of the new committee of estates of 14 March.¹⁰⁴

A new privy council consisting of four nobles and five gentry was established by parliament on 16 March. None of the nine members had been included on the committee of estates of 9 June 1648, whereas Lord Coupar, Sir Thomas Ruthven of Frieland (Perth) and Arthur Forbes of Echt (Aberdeen) were members of the current commission of the kirk.¹⁰⁵

In addition, a new treasury commission and a new commission of the exchequer were formed on 16 March. Both commissions enjoyed identical memberships, consisting of five nobles and one laird, although they were distinct in constitutional terms. Loudoun, Argyll, Eglinton, Cassillis and Burleigh were the five nobles, whilst the one laird, Sir Daniel Carmichael of Hyndford, was included in the capacity of treasurer depute. All bar Loudoun and Sir Daniel Carmichael were members of the current commission of the kirk, whilst only Burleigh and Carmichael had not been members of the previous committee of estates of 9 June.¹⁰⁶ A new excise commission, consisting of five nobles, eight gentry, and five burgesses, was also established on 16 March. Two nobles, five gentry, and three burgesses included on the excise commission were members of the current commission of the kirk.¹⁰⁷ Only two members of the excise commission, however, had been included on the previous committee of estates.¹⁰⁸

¹⁰⁴ *APS*, vi, ii, 290-2, 300.

¹⁰⁵ *Ibid.*, 102-5, 364; *Records of the Kirk*, 514-15.

¹⁰⁶ *APS*, vi, ii, 102-5, 321; *Records of the Kirk*, 514-15.

¹⁰⁷ *APS*, vi, ii, 321; *Records of the Kirk*, 514-15. Lords Coupar and Elcho for the nobility, Winraham of Liberton (Edinburgh), Ruthven of Frieland (Perth), Brodie of that ilk (Elgin), Colville of Blair and Sir John Hope of Craighall for the gentry, with Sir James Stewart (Edinburgh), George Porterfield (Glasgow) and Robert Barclay (Irvine) for the burgesses.

¹⁰⁸ *APS*, vi, ii, 102-5, 321. Buccleuch for the nobility and Hugh Kennedy (Ayr) for the burgesses formed the common grouping.

Conclusion

The commission of the kirk operated and functioned as an effective lobbying agent of parliament. The Rev. J. Wood Brown writing in 1893 commented that the “churchmen” who had opposed the Engagement in 1648 “acquired a new influence in the national councils”.¹⁰⁹ Influence is one thing, but it is misleading to refer to the Parliament of 1649 as a “ministers’ Parliament” *per se*.¹¹⁰ Collectively, empirical analysis of parliamentary committee data certainly indicates that the commission of the kirk exercised a strong influence in terms of staffing levels. Yet it is perhaps misleading to distinguish too much between the institutional apparatus of church and state. Scrutiny of attendance and membership data of the operation of the commission of the kirk itself does not indicate dominance by those lay members who were prominent in the staffing of parliamentary committees. Nobles, gentry and burgesses who had been nominated as lay elders of the commission would have been elected on the grounds of their suitability and commitment to the cause and interests of the church. Yet this commitment was not reflected in attendance at the commission’s diets nor in membership of the commission’s subcommittees. In both instances, proceedings and membership were dominated by the ministry itself.¹¹¹ Lay elders of the commission were therefore to the fore in employment of offices of the state (parliamentary committees). Parliamentary committees were regarded as the appropriate vehicle for political influence on the part of lay elders. It can be suggested tentatively that a corpus of covenanting radicalism in 1649 operated in a mature manner in 1649; the ministry through the commission of the kirk and the lay eldership and other committed nobles, gentry and burgesses through parliamentary session and interval committees. In the final analysis, however, there is no clear evidence that the state was subservient to the church. Indeed, the act anent the securing of religion and peace of the kingdom of 7 February 1649, which had placed limitations on Charles II as King of Great Britain as a covenanted monarch, had also stated that there should be a

¹⁰⁹ J. Wood Brown, *The Covenanters of the Merse* (London, 1893), 27.

¹¹⁰ Makey, *Church of the Covenant*, 80.

¹¹¹ Stevenson, *ante*, xix (1977), 79, and Makey, *Church of the Covenant*, 89-90, notes the numerical dominance of the ministry on the commission.

clear demarcation between church and state; civil matters were to be determined by parliament and ecclesiastical matters by the general assembly.¹¹²

¹¹² *APS*, vi, ii, 161.